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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/007,086	12/06/2001	Herve A. Fevrier	069204.0108	3180

7590 07/11/2003  
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EXAMINER

VALENCIA, DANIEL E

ART UNIT PAPER NUMBER

2874

DATE MAILED: 07/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/007,086

Applicant(s)

FEVRIER ET AL.

Examiner

Daniel E Valencia

Art Unit

2874

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 10 February 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-56 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-56 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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## **DETAILED ACTION**

This Office Action is in response to Applicant's election, in Paper 4, of Group I (claims 1-56) without traverse. Accordingly, claims 57-64 have been cancelled.

### ***Inventorship***

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-9, 13-21, 24-31, 35-43, 45, and 48-54 are rejected under 35 U.S.C. 102(e) as being anticipated by Stephens U.S. Patent No. 6,563,614. Refer to the appropriate drawings or parts of the specification. Stephens discloses an optical transmission system amplifier control apparatus with all the limitations of the abovementioned claims. Regarding claims 1-3, 8, 9, 13, 14, 15, 20, 21, 24-31, 35, 37, 38, 43, 48, and 53, Stephens discloses a system operable to facilitate management (fig. 7, 5, and 4) of a plurality of optical elements, comprising: a manager agent (60) operable to receive, for each of the plurality of optical elements, provisioning information describing at least one setting (col. 5, lines 9-45 and col. 11, lines 20-55) of the optical element and monitoring information describing at least one operational characteristic of the optical element, wherein at least a portion of the provisioning information is correlated with at least a portion of the monitored information; and a manager memory ("calibration table" or "setpoints" and col. 10, lines 59-62 and col. 9, lines 25-37) accessible to the manager agent and operable to maintain a link correlation history comprising a plurality of correlated provisioning and monitored information measurements for each of the plurality of elements. Stephens further discloses that the elements can reside in a single (fig 3) or a first and second optical link (fig 5 and 7), as mentioned in claims 4, 5, 39, 40, 51, and 52. With reference to claims 6, 7, 41, and 42, Stephens discloses that the provisioning information is an optical element setting selected from a group consisting of an amplifier gain (fig. 5 or 7 and col. 4, lines 39-45 and col. 5, lines 41-44), a laser drive current, a pre-emphasis level, and a number channels amplified. Stephens further discloses that the optical element can comprise

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an amplifier, at least one optical transmitter, at least one optical receiver, or an add-drop multiplexer (fig. 5, 7, 8), as explained in claims 16-19. As to claim 36 and 49, Stephen's disclosure shows that the apparatus has a querying module for querying the optical element (col. 9, lines 35-45 and ref 12). Because of the nature of Stephens's device as a compensation apparatus, the device would inherently function as a troubleshooting application by comparing a current set of provisioning information (feedback loop) with provisioning data (setpoint) stored in memory, as described by claims 45 and 54.

Regarding claim 50, Stephens discloses a plurality of element agents (fig. 8, 48 and 64), each element agent operable to receive provisioning and monitored information (calibration) associated with that optical element, wherein the manager agent (60) is operable to generate the link correlation history associated with each of the plurality of optical elements.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10-12, 22, 23, 32-34, 44, 46, 47, and 55-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stephens. Refer to the appropriate drawings or parts of the specification. Stephens as applied above, explicitly discloses a majority of

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the limitations of the claimed invention; however, the reference is silent as to some of the limitations described in the present claims.

On the other hand, one of ordinary skill in the art would recognize that the device disclosed by Stephens could inherently display the correlational information to identify trends while comparing time intervals, as mentioned in claims 10-12, 22, 23, 32-34, and 44. These types of applications are well known to be advantageous in the art of processing performance parameters of electronic and optoelectronic devices using computing. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to compare correlational data of different time periods in order to identify trends in the device disclosed by Stephens.

Regarding claims 46 and 55, it is well known in the art of managing optical elements to adjust parameters of an optical element using correlation history, such as a look up table. It follows that a module could compare the output of the different set of parameters or computing system, as described by claims 47 and 56. These types of parameter to output comparisons are commonly known and are used in various device-testing algorithms. Therefore, the limitations of claims 46 and 55 would have been a well-known modification of the prior art at the time of invention.

Examiner would point out that the claim language is sufficiently broad to describe practically any optical system or network, which manages an optical device with the use of a history or memory storing previous values of that parameter and their corresponding outputs.



### ***Conclusion***

The prior art documents submitted by the applicant in the Information Disclosure Statement filed on September 11, 2002, have all been considered and made of record (note attached copy of form PTO-1449).

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lelic U.S. Patent Application Publication No. 2002/0186460 discloses a variable gain optical amplifier, especially relevant to claims 1-56, that uses a correlation history to achieve an equalized gain in a fiber optic link.

The following U.S. Patents and Patent Applications disclose an optical element managing system that explicitly or implicitly utilizes a correlation history or look-up table stored in a memory to achieve a desired output:

1. Thomas U.S. Patent Application Publication No. 2003/0086140
2. Fala U.S. Patent Application Publication No. 2003/0048500
3. Vujkovic-Cvijin U.S. Patent Application Publication No. 2003/0039015
4. Huang U.S. Patent Application Publication No. 2003/0021011
5. Chang U.S. Patent Application Publication No. 2003/0117678
6. Kish U.S. Patent Application Publication No. 2003/0095736
7. So U.S. Patent Application Publication No. 2003/0090783
8. Canada U.S. Patent No. 6,301,514
9. Fujii U.S. Patent No. 6,078,877

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10. Lovrenich U.S. Patent No. 4,858,102

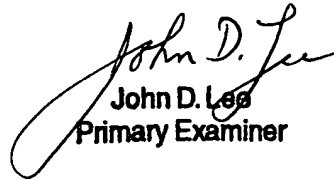
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel E Valencia whose telephone number is (703)-305-4399. The examiner can normally be reached on Monday-Friday 9:30-6:00.

The fax phone numbers for the organization where this application or proceeding is assigned are (703)-308-7724 for regular communications and (703)-308-7724 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-308-0956.



DEV  
July 1, 2003



John D. Lee  
Primary Examiner